

## Hydrogen Transfer Purchaser/Receiver Reporting Frequently Asked Questions

### Background

New regulatory language in section 95114(j) of the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (Title 17, California Code of Regulations, section 95100 *et seq.*) (MRR), effective January 1, 2015, requires that hydrogen producers with facilities in California report the purchaser/receiver and the mass transferred for all hydrogen transfers from those facilities. The new reporting requirement supports determinations of transportation fuel carbon intensities under the Air Resources Board's (ARB) Low Carbon Fuel Standard (LCFS).

### Frequently Asked Questions

- 1. The list of hydrogen purchasers/receivers is sensitive confidential business information. How does ARB guarantee that the confidentiality of this information is preserved?**

The California Public Records Act, Government Code §6250 *et seq.*, Title 17, California Code of Regulations, §91000-91022, and the Information Practices Act, Civil Code §1798 *et seq.* govern the identifiability, privacy, and confidentiality of information that ARB controls or possesses.

ARB uses administrative, technical, and physical safeguards to protect confidential business information (CBI) from improper use and disclosure. Staff members with access to CBI are trained annually on privacy and security awareness. Access to these CBI data is limited to ARB staff with a need to know for implementing or evaluating the Low Carbon Fuel Standard. CBI will not be provided to any unauthorized person or entity.

- 2. Some commercial contracts between hydrogen producers and purchasers may purport to restrict the producer's ability to disclose the identity of the purchaser and/or the quantity purchased. How does this affect reporting?**

Commercial contracts do not supersede California regulations. See generally California Civil Code §1667 and §3513. A commercial contract cannot compel a party to the contract to violate California regulation, so the disclosures required by California law must still be made. Nonetheless, ARB's strict CBI protections, and continuing efforts to limit collection of CBI except to the extent appropriate for the purposes of MRR and LCFS, are designed to maintain the confidentiality of such information.

**3. Does this requirement subject the reported hydrogen transfer quantities to the calibration and measurement device accuracy standards of section 95103(k) of the Mandatory Reporting Regulation? Are the hydrogen transfer quantities covered product data that are subject to material misstatement?**

The reported hydrogen transfer quantities are not subject to the calibration and measurement device accuracy standards of section 95103(k). These data are not used for allowance allocation under the Cap-and-Trade Regulation, and are therefore not covered product data. The reported hydrogen transfer quantities are not subject to material misstatement assessment during verification, but those data *will* be evaluated for conformance with MRR.

**4. How should hydrogen transfers to customers outside of California be reported?**

This regulatory requirement is intended to serve the purposes of LCFS. More limited identification of hydrogen transfers and sales to customers outside of California is acceptable given LCFS data needs. Therefore, in order to limit disclosure of CBI information to the extent possible consistent with MRR, producers may identify out-of-State facility sales or transfers by providing the industrial activity and the location (county and state) of the customer in lieu of the customer name. For example, a hydrogen producer may report "Food processing in Maricopa County, Arizona" in the field labeled "Purchaser or Receiver of Hydrogen" for a hydrogen transfer to a food processing facility in Phoenix, Arizona. The quantity of hydrogen transferred to each out-of-State facility must also be reported.

**5. How should transfers of hydrogen that was produced outside of California and then sold to a customer within California be reported?**

The reporting regulation does not apply to hydrogen producers outside of California. Hydrogen produced outside California and sold to California customers are not required to be reported.

**6. How should the quantity of hydrogen transferred to customers be determined in cases where multiple production facilities provide hydrogen via a pipeline that serves multiple customers?**

When multiple production facilities under common ownership feed hydrogen into a pipeline that serves multiple customers, the exact mass transferred from each production facility to each customer may be impossible to determine. In this case, the hydrogen producer must determine the source of all hydrogen delivered to a specific customer. The hydrogen producer may use commercially negotiated allocations of product sold and sales records to determine the amount delivered by each facility and received by each customer. Alternatively, the amount transferred to each customer from each producing facility may be calculated by prorating the total

mass transferred to the customer by the ratio of the mass fed into the pipeline by each individual producer to the total mass fed into the pipeline by all producers.

For example, consider the case where Facility A fed 4,000 metric tons (MT) H<sub>2</sub> into a pipeline during the year and Facility B fed 6,000 MT H<sub>2</sub> into the same pipeline. Assume that sales records show that the total amount transferred during the year to customer 1 was 1,000 MT H<sub>2</sub>. Likewise, sales records show the annual mass transferred to customers 2, 3, and 4 to be 2,000, 3,000, and 4,000 MT H<sub>2</sub>, respectively. The fraction of the total hydrogen mass fed into the pipeline by Facility A is 0.4, and the fraction supplied by Facility B is 0.6. Transfers to customers should be reported as follows:

Transfers from Facility A:

Customer 1	$0.4 \times 1,000 = 400 \text{ MT H}_2$
Customer 2	$0.4 \times 2,000 = 800 \text{ MT H}_2$
Customer 3	$0.4 \times 3,000 = 1,200 \text{ MT H}_2$
Customer 4	$0.4 \times 4,000 = 1,600 \text{ MT H}_2$

Transfers from Facility B:

Customer 1	$0.6 \times 1,000 = 600 \text{ MT H}_2$
Customer 2	$0.6 \times 2,000 = 1,200 \text{ MT H}_2$
Customer 3	$0.6 \times 3,000 = 1,800 \text{ MT H}_2$
Customer 4	$0.6 \times 4,000 = 2,400 \text{ MT H}_2$

**7. Section 95114(j) of the regulation states that producers must report all hydrogen transferred to another “facility.” How is a “facility” defined?**

A “facility” is defined in section 95102(a)(170) of MRR as “any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control, that emits or may emit any greenhouse gas.” A facility is interpreted broadly by ARB and may include entities that do not report under MRR. An individual or entity that purchases hydrogen from a fueling station for use as a motor vehicle fuel does not constitute a facility.